

STATE OF NEW YORK

7147--A

IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing a carpet stewardship program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Declaration of legislative intent and findings. (a) It is
2 the policy of the state of New York to promote and support a system of
3 sustainable solid waste management that minimizes waste and maximizes
4 recycling and the use of recyclable materials, and to develop new
5 markets for recycled products and materials.

6 (b) The legislature finds and declares all of the following:

7 (i) Carpet waste is heavy and bulky and imposes significant solid
8 waste management cost on municipalities because it is expensive to
9 dispose. Very little discarded carpet is recycled in the state.

10 (ii) The New York state department of environmental conservation
11 adopted on December 27, 2010 a new solid waste management plan entitled
12 "Beyond Waste, A Sustainable Materials Management Strategy for New York
13 State", in which product stewardship is a centerpiece of the new solid
14 waste management plan of the state.

15 (iii) Carpet was one of the few products listed by the New York state
16 department of environmental conservation as most suited to a stewardship
17 approach based on research and feedback from stakeholders.

18 § 2. Article 27 of the environmental conservation law is amended by
19 adding a new title 28 to read as follows:

TITLE 28

CARPET STEWARDSHIP

22 Section 27-2801. Short title and definitions.

23 27-2803. Manufacturer removal, acceptance and recycling.

24 27-2805. Manufacturer registration and responsibilities.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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27-2807. Wholesaler, retailer, flooring and floor covering contractor and consumer requirements.

27-2809. Carpet stewardship plan.

27-2811. Department responsibilities.

27-2813. Annual reporting requirements.

27-2815. Preemption.

27-2817. Fees and penalties.

27-2819. Enforcement.

27-2821. State agencies' responsibilities.

27-2823. Miscellaneous.

§ 27-2801. Short title and definitions.

1. This title may be known as and may be cited as the "New York state carpet stewardship law".

2. The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(a) "Brand" means a name, symbol, word, or mark that identifies the carpet, rather than its components, and attributes the carpet to the owner or licensee of the brand as the manufacturer.

(b) "Carpet" means a manufactured article that is used in commercial, institutional or residential buildings affixed or placed on the floor or building walking surface as a decorative or functional building interior or exterior feature and that is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials. "Carpet" includes, but is not limited to, a commercial or a residential broadloom carpet, modular carpet tiles, and a pad or underlayment used in conjunction with a carpet. "Carpet" does not include rugs, defined as a floor covering that does not extend over the entire floor and is area specific; movable floor covering; or mats, defined as a piece of fabric made of plaited or woven rushes, straw, hemp, or similar fiber, or of some other pliant material, used as a movable protective covering on a floor or other surface.

(c) "Carpet stewardship" means that all parties involved in designing, manufacturing, selling, installing and using carpet take responsibility for managing and reducing the life-cycle impacts of the carpet, from product design to end-of-life management. Life-cycle impacts include, but are not limited to, energy and materials consumption, air and water emissions, the amount of hazardous substances in the product, worker and consumer exposure and reuse, recycling and waste disposal.

(d) "Carpet stewardship organization" means a person appointed by one or more manufacturers to act on behalf of the manufacturer to design, submit, and administer a carpet stewardship plan under this title.

(e) "Carpet stewardship plan" means a plan written by an individual manufacturer or a carpet stewardship organization, on behalf of one or more manufacturers, which describes the manner in which the carpet stewardship program will be implemented in the state through methods, processes, techniques, systems, and services financed and provided by manufacturers of carpet. The carpet stewardship plan shall include all of the information required by section 27-2809 of this title.

(f) "Consumer" means any person who purchases, owns, or leases carpet for use.

(g) "Discarded carpet" means carpet that is no longer used for its manufactured purpose, or is no longer wanted by a consumer. However, the term does not include carpet scrap generated during carpet production.

(h) "Flooring and Floor Covering" means material used to make the surface of a floor above the sub-floor including, but not limited to,

1 carpet, linoleum, vinyl, or rubber rolls and tile; natural and synthetic
2 stone tiles; or planks, sections, or squares cut or assembled from wood,
3 bark, or other plant or synthetic materials.

4 (i) "Flooring and Floor Covering Contractor" means any person or enti-
5 ty which operates a business that installs, replaces, or removes floor-
6 ing or floor covering, or that undertakes, offers to undertake or agrees
7 to install, replace, or remove flooring or floor covering for a fee; and
8 for which the total cost of all of his or her flooring or floor covering
9 contracts with all its customers exceeds one thousand five hundred
10 dollars during any period of twelve consecutive months. Such term shall
11 not include a person, firm, landlord, cooperative corporation, condomin-
12 ium board of managers, joint tenant or co-tenant that owns, in whole or
13 in part, the real property to be improved.

14 (j) "Manufacturer" means: (1) the person who manufactures and sells,
15 offers for sale, or distributes the carpet in the state under that
16 person's own name or brand; (2) if there is no person who manufactures
17 and sells, offers for sale, or distributes the carpet in the state under
18 the person's own name or brand, the manufacturer is the owner or licen-
19 see of a trademark or brand under which the carpet is sold or distrib-
20 uted in the state, whether or not the trademark is registered; and (3)
21 if there is no person who is a manufacturer of the carpet under subpara-
22 graph one or two of this paragraph, the manufacturer of that carpet is
23 the person who imports the carpet into the state for sale or distrib-
24 ution.

25 (k) "Municipality" means a county, city, town or village.

26 (l) "Person" means any individual, business entity, partnership,
27 company, corporation, limited liability company, non-profit organiza-
28 tion, association, governmental entity, educational or cultural insti-
29 tutions, public benefit corporation, or any other group of individuals,
30 or any officer or employee or agent thereof.

31 (m) "Recycling" means the transforming or remanufacturing of a
32 discarded carpet or the discarded carpet's components and by-products,
33 or carpet scraps generated during carpet production, into usable or
34 marketable materials which shall be respectful of the environment and
35 public health. "Recycling" does not include landfill disposal, inciner-
36 ation or energy recovery or energy generation by means of combusting
37 discarded carpets.

38 (n) "Reasonable condition" means fifty percent or less of a carpet has
39 damage due to fire, flood, smoke, or mold.

40 (o) "Retailer" means a person who sells or offers for sale carpet in
41 this state to a consumer.

42 (p) "Reuse" means a change in ownership of a carpet or component in a
43 carpet for use in the same manner and purpose for which it was
44 originally produced.

45 (q) "Sell" or "sales" means a transfer of title of carpet for consid-
46 eration, including a remote sale conducted through a sales outlet, cata-
47 log, internet web site, or similar electronic means. For purposes of
48 this title, "sell" or "sales" includes a lease through which a carpet is
49 provided to a consumer by a manufacturer, wholesaler, or retailer.

50 (r) "Wholesaler" means every person who sells or distributes carpet in
51 the state in a sale that is not a retail sale, and in which the carpet
52 is intended to be resold.

53 § 27-2803. Manufacturer removal, acceptance and recycling.

54 1. Beginning July first, two thousand nineteen, a manufacturer of
55 carpet or a carpet stewardship organization working on behalf of such
56 manufacturer shall remove, accept, transport and recycle or reuse any

1 discarded carpet including discarded carpet removed and accepted from
2 consumers or through wholesalers, retailers, and flooring and floor
3 covering contractors pursuant to this title.

4 2. The removal and acceptance of discarded carpet shall be done prima-
5 rily, but not exclusively, through the manufacturer's wholesalers,
6 retailers and any flooring and floor covering contractors.

7 3. The manufacturer, at the manufacturer's cost, shall make arrange-
8 ments with its wholesalers, retailers, and any flooring and floor cover-
9 ing contractors for the removal, acceptance, transport, recycling and
10 reuse of discarded carpet accepted pursuant to the provisions of this
11 title and shall provide for a location for such wholesaler, retailer,
12 and flooring and floor covering contractor to send removed discarded
13 carpet. Such arrangements may include, but are not limited to,
14 contracts or other agreements with third parties such as recycling
15 facilities. In order to facilitate carpet recycling, the removal and
16 acceptance process shall require source separation and ensure the carpet
17 is in a condition allowing its recycling or reuse. The manufacturer,
18 wholesaler, retailer, and flooring and floor covering contractors shall
19 not refuse to remove or accept any carpet in reasonable condition.

20 4. Beginning in calendar year two thousand twenty, the manufacturer
21 shall comply with the recycling and reuse goals established in its
22 carpet stewardship plan required by section 27-2809 of this title. The
23 recycling and reuse goal for a given year established in the carpet
24 stewardship plan shall at a minimum be equal to the total weight of
25 carpet sold by a manufacturer in the state during such year multiplied
26 by the statewide recycling and reuse percentage rate established in
27 subdivision five of this section.

28 5. The statewide recycling and reuse percentage rate shall be as
29 follows:

30 (a) for calendar years two thousand twenty and two thousand twenty-
31 one: twenty-five percent.

32 (b) for calendar years two thousand twenty-two and two thousand twen-
33 ty-three: forty percent.

34 (c) for calendar years two thousand twenty-four and two thousand twen-
35 ty-five: sixty percent.

36 (d) for calendar years two thousand twenty-six and two thousand twen-
37 ty-seven: seventy-five percent.

38 (e) for calendar year two thousand twenty-eight and thereafter: nine-
39 ty-five percent or more.

40 The total weight of carpet recycled or reused by the manufacturer
41 includes carpet of any brand accepted by the manufacturer for recycling
42 or reuse, and is not limited to the manufacturer's brand.

43 6. A manufacturer or the carpet stewardship organization on behalf of
44 the manufacturer may petition the department for an adjustment to the
45 statewide recycling and reuse percentage rate. The department may grant
46 an adjustment to the statewide recycling and reuse percentage rate for
47 the manufacturer only if the department determines there are documented
48 exigent circumstances that are beyond the control of the manufacturer.

49 7. Beginning in the calendar year two thousand twenty, a manufacturer
50 who does not comply with its annual recycling and reuse goal established
51 in its carpet stewardship plan in any year shall pay a recycling
52 surcharge equal to the average cost of recycling the total weight of
53 additional carpet that the manufacturer was required to recycle or reuse
54 pursuant to subdivision four of this section. The average cost of recy-
55 cling shall be fifteen cents per pound; provided that the department may
56 revise the average cost of recycling from time to time on its own initi-

1 ative or upon a petition by a manufacturer or a carpet stewardship
2 organization. The recycling surcharge for any year shall be paid at the
3 time of submission of the annual report for that calendar year, as
4 required in section 27-2813 of this title.

5 8. Beginning in the calendar year two thousand twenty-one, if a
6 manufacturer's rate of recycling and reuse of carpets exceeds the goal
7 provided in paragraph (e) of subdivision five of this section, the
8 excess may be used as recycled carpet credits and may be sold, traded,
9 or banked for a period no longer than three calendar years succeeding
10 the year in which the credits were earned; provided, however, that no
11 more than twenty percent of a manufacturer's obligation for any calendar
12 year may be met with recycled carpet credits generated in a prior calen-
13 dar year or purchased.

14 § 27-2805. Manufacturer registration and responsibilities.

15 1. By April first, two thousand nineteen, prior to selling or offering
16 for sale in the state any carpet, a manufacturer shall, either directly
17 or through a carpet stewardship organization: (a) register with the
18 department using the carpet stewardship program registration form
19 prescribed by the department and available on the department's website
20 and pay a registration fee as established by the department pursuant to
21 section 27-2817 of this title; and (b) submit a carpet stewardship plan
22 to the department.

23 2. At a minimum, the manufacturer shall list on the carpet stewardship
24 program registration form its wholesalers and retailers as well as the
25 gross amount of carpet (in tons and US dollars) sold in the state during
26 the previous three calendar years.

27 3. A manufacturer's registration is effective upon fulfilling the
28 requirements of subdivision one of this section.

29 4. A manufacturer shall update its registration within thirty days of
30 any material change to the information required in the carpet steward-
31 ship program registration form or the carpet stewardship plan.

32 5. The manufacturer shall post on its website the carpet stewardship
33 plan submitted to the department and the date of registration of the
34 manufacturer with the department.

35 6. The manufacturer shall develop educational materials to encourage
36 the removal and acceptance, recycling and reuse of discarded carpet and
37 shall make those materials available to wholesalers, retailers, flooring
38 and floor covering contractors and consumers. Such educational materials
39 shall include statewide information campaigns regarding the mandatory
40 removal, acceptance, transport and recycling or reuse of discarded
41 carpet in the state. The content of such campaigns shall be coordinated
42 with the department, the environmental services unit of empire state
43 development, the carpet stewardship organization and other manufactur-
44 ers.

45 7. Beginning with calendar year two thousand twenty-two, and every
46 three years thereafter, a manufacturer or the carpet stewardship organ-
47 ization on behalf of the manufacturer shall retain a third-party to
48 audit the manufacturer's recycling and reuse program to demonstrate
49 compliance with the provisions of this title. A manufacturer or the
50 carpet stewardship organization on behalf of the manufacturer shall
51 maintain the result of this audit for a period of three years. Results
52 of this audit shall be made available to the department upon request.

53 § 27-2807. Wholesaler, retailer, flooring and floor covering contractor
54 and consumer requirements.

55 1. A wholesaler, retailer or flooring and floor covering contractor
56 shall not distribute, sell or install carpet of a manufacturer (a) who

1 is not registered with the department, or (b) is registered with the
2 department but is not in compliance with the provisions of this title.
3 In the event the registration of the manufacturer was revoked by the
4 department or withdrawn by the manufacturer, a wholesaler, retailer or
5 flooring and floor covering contractor may continue to distribute, sell
6 or install the carpet of such manufacturer for a period of one hundred
7 eighty days from the date the registration was revoked or withdrawn.

8 2. At the point of sale of carpet, a wholesaler or retailer shall
9 provide consumers with information about removal, acceptance, transport
10 and recycling and reuse of discarded carpet.

11 3. A wholesaler or retailer shall promptly and safely remove, accept
12 and transport, or arrange for removal, acceptance and transportation of
13 discarded carpet upon submission of a written request by a consumer in
14 person or by mail, email, or online form.

15 (a) The requirements of this subdivision shall apply whether or not
16 the consumer purchased carpet from such wholesaler or retailer.

17 (b) A manufacturer, wholesaler or retailer shall make available at the
18 point of sale or online a form for use by a consumer to submit such a
19 written request. Such form shall contain the name, address, telephone
20 number and email address of the consumer and the following information
21 about the carpet: approximate size, condition and location, and if
22 known, components, materials and brand.

23 (c) Removal or causing removal of discarded carpet pursuant to this
24 subdivision shall include pulling up the carpet, whether or not the
25 carpet is replaced.

26 (d) Upon removal of the discarded carpet from its location, a whole-
27 saler or retailer shall, as soon as practicable, send the discarded
28 carpet to the location provided by the manufacturer. The manufacturer
29 shall be responsible for the cost of transporting the discarded carpet
30 from its removal location to the location provided by the manufacturer.

31 4. A flooring and floor covering contractor shall provide consumers
32 who contract with such flooring and floor covering contractor to install
33 or replace flooring or floor covering with information about removal,
34 acceptance, transport, recycling and reuse of discarded carpet, includ-
35 ing a form for submitting a written request to remove discarded carpet.
36 Such form shall contain the name, address, telephone number and email
37 address of the consumer and the following information about the carpet:
38 approximate size, condition and location, and if known, components,
39 materials and brand.

40 5. Upon receipt of a written request from a consumer who contracts
41 with a flooring and floor covering contractor to install or replace
42 flooring or floor covering, or a retailer, a wholesaler or a manufactur-
43 er who retains a flooring and floor covering contractor, to remove
44 discarded carpet, such flooring and floor covering contractor shall
45 promptly and safely remove or cause to be removed the discarded carpet.
46 The manufacturer shall be responsible for the cost of removing the
47 discarded carpet.

48 6. Every flooring and floor covering contractor who installs or
49 replaces flooring or floor covering for a consumer shall remove, accept,
50 and transport such discarded carpet from the premises of such consumer
51 no later than the time the contracted work is completed. Removal or
52 causing removal of discarded carpet pursuant to this subdivision shall
53 include pulling up the carpet, whether or not the carpet is replaced.
54 Upon removal of the discarded carpet from its location, a flooring and
55 floor covering contractor shall, as soon as practicable, send the
56 discarded carpet to the location provided by the manufacturer or to a

1 wholesaler or retailer to send to the location provided by the manufac-
2 turer. The manufacturer shall be responsible for the cost of transport-
3 ing the discarded carpet from its removal location to the location
4 provided by the manufacturer.

5 7. A flooring and floor covering contractor shall not be required to
6 remove, accept, and transport carpet from the premises of a consumer
7 when:

8 (a) The consumer requests to retain custody of all or any portion of
9 the carpet, and the flooring and floor covering contractor:

10 (i) Removes all carpet which the customer does not elect to retain
11 custody of, and

12 (ii) Informs the customer that he or she is responsible for the proper
13 management of the carpet in accordance with applicable law, and obtains
14 a statement, signed by the customer, attesting that he or she has
15 elected to retain custody of the carpet, the approximate square yardage
16 of the retained carpet and acknowledging that he or she has been
17 informed of his or her responsibility for the proper management of the
18 carpet, including any costs associated with the acceptance thereof by or
19 on behalf of the appropriate municipality, or by a contracted licensed
20 hauler; or

21 (b) The consumer has not contracted with such flooring and floor
22 covering contractor to install or replace flooring or floor covering, or
23 a retailer, a wholesaler or a manufacturer has not contracted with such
24 flooring and floor covering contractor to install flooring or floor
25 covering or to remove, accept, and transport discarded carpet from such
26 consumer.

27 8. Beginning January first, two thousand twenty-two, any consumer in
28 the state who wishes to dispose of any discarded carpet shall contact a
29 manufacturer, wholesaler, retailer, flooring and floor covering contrac-
30 tor or recycling facility to organize the removal and acceptance of
31 discarded carpet.

32 9. On a monthly basis, a wholesaler, retailer or flooring and floor
33 covering contractor shall communicate in writing to the manufacturer the
34 weight of discarded carpet that has been accepted by such wholesaler,
35 retailer or flooring and floor covering contractor for recycling or
36 reuse.

37 § 27-2809. Carpet stewardship plan.

38 1. Each carpet stewardship plan shall address the environmental
39 impacts of carpet over its entire life cycle, including carpet design,
40 manufacture, and distribution, and the removal, acceptance, transporta-
41 tion, reuse, recycling, and final disposition of discarded carpet.

42 2. An updated carpet stewardship plan shall be submitted to the
43 department at least every five years.

44 3. The plan shall include, at a minimum, all of the following
45 elements:

46 (a) Identification and contact information for (i) the person submit-
47 ting the plan; (ii) the manufacturer or manufacturers participating in
48 the carpet stewardship plan; and (iii) if a stewardship organization
49 implements the carpet stewardship plan on behalf of manufacturers, the
50 carpet stewardship organization, including a description of the carpet
51 stewardship organization, its management and administration and the
52 tasks to be performed by the carpet stewardship organization;

53 (b) A description of the brands of carpet covered by the plan;

54 (c) A list of the manufacturer's wholesalers and retailers;

55 (d) A list of the recycling facilities that will be used by the
56 manufacturer including the addresses and telephone numbers of such

1 facilities, and their average costs of handling and recycling discarded
2 carpet;

3 (e) Goals, over a five-year period. The goals shall include the
4 following:

5 (1) The carpet recycling and reuse goals; and

6 (2) A description of carpet designing and materials content, manufac-
7 turing, packaging, distribution, and end-of-life management goals. The
8 goals shall address the use of virgin materials in the manufacture of
9 the carpet, the impact upon, or use of, water or energy in the manufac-
10 ture of the carpet, the use of, or generation of hazardous substances,
11 in the manufacture of the carpet, the impact of the carpet on greenhouse
12 gas emissions, the carpet's longevity, the recycled content of the
13 carpet, and recyclability, where applicable;

14 (f) The methods for calculating the rate of recycling and reuse of
15 carpet and the methods and processes used to increase the acceptance and
16 recycling or reuse of discarded carpet and the recyclability of carpet;

17 (g) The strategies used to incentivize the market growth of recycled
18 products made from discarded carpet and to develop recycling infrastruc-
19 ture in the state;

20 (h) An overview of the roles and responsibilities of key players along
21 the distribution chain;

22 (i) Education and outreach activities to consumers, flooring and floor
23 covering contractors, wholesalers, retailers and other interested
24 parties; and

25 (j) A detailed financing mechanism to carry out the plan, including
26 but not limited to the administrative, operational, and capital costs of
27 the plan.

28 § 27-2811. Department responsibilities.

29 1. The department shall post on its website the list of the manufac-
30 turers who have registered with the department together with a link to
31 each manufacturer's website and carpet stewardship plan.

32 2. The department's website shall be updated periodically to reflect
33 whether a manufacturer is or is not in compliance with the provisions of
34 this title. In the event the registration of a manufacturer was revoked
35 by the department or withdrawn by the manufacturer, the department shall
36 send written notification of this fact to all wholesalers, retailers,
37 and flooring and floor covering contractors listed in said manufacturers
38 carpet stewardship plan within thirty days.

39 3. The department may conduct randomly selected audits to verify
40 compliance by a manufacturer with the provisions of this title.

41 4. The department may provide information to manufacturers regarding
42 the availability of recycling facilities and companies that remove,
43 accept, transport, recycle and/or reuse discarded carpet, including the
44 addresses and phone numbers of such facilities.

45 5. In order to assist in the creation and development of carpet recy-
46 cling infrastructure in the state as well as in developing market oppor-
47 tunities for recycled products and materials, the department, the envi-
48 ronmental services unit of empire state development, and carpet
49 stewardship organizations may form a carpet stewardship program support
50 unit headquartered within the environmental services unit of empire
51 state development. The environmental services unit of empire state
52 development shall have primary responsibility to manage the carpet
53 stewardship program support unit. The role of the carpet stewardship
54 program support unit shall be to provide assistance and coordinate
55 efforts to create in the state recycling infrastructure and markets for
56 recycled products and materials.

6. The department, the carpet stewardship program support unit within the environmental services unit of empire state development, carpet stewardship organizations and manufacturers shall launch statewide coordinated information campaigns, at the manufacturers' costs, using various communication instruments such as the internet, newspapers, television, radio and movie theaters, to inform and educate consumers, flooring and floor covering contractors, retailers and wholesalers about the mandatory removal, acceptance, transport and recycling or reuse of discarded carpet.

7. On or before January first, two thousand twenty-two, and every four years thereafter, the department shall submit a report to the governor and the legislature describing the results of the carpet stewardship program and recommending whether to undertake any modifications to improve its functioning and efficiency. At a minimum the report shall include:

(a) an evaluation of the carpet waste stream in the state;
(b) recycling and reuse rates in the state for carpet;
(c) an evaluation of compliance and enforcement actions;
(d) a discussion of opportunities for business development in the state related to the removal, acceptance, transport and recycling or reuse of carpet in the state.

8. The department is authorized to promulgate rules and regulations it deems necessary to implement the provisions of this title.

§ 27-2813. Annual reporting requirements.

1. The manufacturer or the carpet stewardship organization, whichever is applicable, shall prepare and submit to the department, by May first each year an annual report describing the activities conducted during the prior calendar year to implement the carpet stewardship plan, including:

(a) Identification and contact information for: (1) the person submitting the annual report; (2) the manufacturer; and (3) the carpet stewardship organization, if applicable;

(b) Goals achieved, including but not limited to: (1) the quantity and percentage rate of carpet accepted in the state for recycling and reuse and a comparison analysis with the goals of the prior year; and (2) how the carpet stewardship plan attained the goals established in such plan or the goals set by the department and, if the goals were not attained, what actions will be taken during the current reporting period to attain such goals;

(c) The methods for calculating the quantity and percentage rate of carpet accepted for recycling and reuse;

(d) An evaluation of the methods and processes used to achieve the manufacturer's or carpet stewardship organization's performance goals;

(e) The removal, acceptance, handling, transportation, processing and disposal systems used;

(f) The education and outreach activities provided during the reporting period to reach consumers, commercial building owners, institutions, wholesalers, retailers, flooring and floor covering contractors and other interested parties and an evaluation of the success of such education and outreach activities;

(g) Steps taken to manage and reduce the life-cycle impacts of the carpet, from product design to end-of-life management, including how the formulation, packaging and distribution of carpet have been improved to reduce waste, reduce toxicity, reduce carbon footprint, reduce other environmental impacts, increase recycled content, increase product longevity and make products more easily recyclable;

1 (h) Quantitative information data and discussion, specific to sales in
2 New York, on the following: (1) the amount of carpet sold by square
3 yards and pounds, in the state during the reporting period that is
4 covered under the approved stewardship plan. A stewardship organization
5 with more than one manufacturer may use average weight; and (2) the
6 amount in pounds of post-consumer carpet that is available for
7 collection;

8 (i) The total cost of implementing the carpet stewardship plan;

9 (j) Recommendations for any changes to the carpet stewardship program;
10 and

11 (k) Any other information that the department may reasonably require.

12 2. The annual report required under subdivision one of this section
13 shall be submitted to the department together with an annual administra-
14 tive processing fee as established by the department pursuant to section
15 27-2817 of this title and any surcharge required to be paid under
16 section 27-2803 of this title.

17 3. The department may require annual reports to be filed electron-
18 ically.

19 § 27-2815. Preemption.

20 Any local law or ordinance which is inconsistent with any provision of
21 this title or any rule or regulation promulgated thereunder shall be
22 preempted.

23 § 27-2817. Fees and penalties.

24 1. Not later than January first of each year, commencing in two thou-
25 sand nineteen, the department shall notify each manufacturer or carpet
26 stewardship organization of the amount of the registration and/or annual
27 fee required to be submitted pursuant to this title. The fee shall
28 reflect the department's actual annual costs to administer and enforce
29 this title for the previous year. For payments due in two thousand nine-
30 teen, two thousand twenty and two thousand twenty-one, the fee shall
31 also reflect the department's actual annual costs to develop regulations
32 and the carpet stewardship program. The department's costs shall include
33 the cost of staff, overhead expenses applicable to staff, contract
34 services and any other expenses incurred in administering or enforcing
35 the program and in developing these regulations and the program.

36 2. All fees collected pursuant to this title shall be deposited into
37 the environmental conservation special revenue account to the credit of
38 the environmental regulatory account. All surcharges and penalties
39 collected pursuant to this title shall be deposited into the solid waste
40 account of the environmental protection fund established under section
41 ninety-two-s of the state finance law. All fees, surcharges and penal-
42 ties collected pursuant to this title shall be used exclusively to
43 implement the provisions of this title.

44 § 27-2819. Enforcement.

45 1. The department shall enforce all the provisions of this title.

46 2. Notwithstanding the provisions of subdivision one of this section,
47 the department may, upon the request of a municipality, delegate the
48 enforcement of the provisions of this title to a municipality. The muni-
49 cipality shall submit to the department a request to be authorized to
50 enforce the provisions of this title. The department shall make a deci-
51 sion on the request filed by the municipality within thirty days from
52 the date of receipt of the municipality's request.

53 3. The department may temporarily prevent a manufacturer, wholesaler
54 or retailer who is not in compliance with the provisions of this title
55 from selling or offering to sell any carpet in the state.

1 4. Any manufacturer who fails to submit any report, registration form,
2 fee, or surcharge to the department as required by this title shall be
3 liable for a civil penalty not to exceed one thousand dollars for each
4 day such report, registration form, fee, or surcharge is not submitted.

5 5. Any manufacturer who violates any other provision of this title
6 shall be liable for a civil penalty for each violation not to exceed one
7 thousand dollars for the first violation, two thousand five hundred
8 dollars for the second violation and five thousand dollars for the third
9 and subsequent violations of this title within a twelve-month period.

10 6. Any wholesaler, retailer, or flooring and floor covering contractor
11 who violates any provision of this title shall be liable for a civil
12 penalty for each violation not to exceed two hundred fifty dollars for
13 the first violation, five hundred dollars for the second violation and
14 one thousand dollars for the third and subsequent violations of this
15 title in a twelve-month period.

16 7. Any consumer who violates any provision of this title shall be
17 liable for a civil penalty not to exceed two hundred fifty dollars for
18 each violation.

19 8. Civil penalties under this section shall be assessed by the depart-
20 ment after a hearing or opportunity to be heard pursuant to the
21 provisions of section 71-1709 of this chapter, and, in addition thereto,
22 such person may by similar process be enjoined from continuing such
23 violation. In the event a municipality has received a delegation from
24 the department pursuant to subdivision two of this section, civil penal-
25 ties shall be assessed by the designated authority or environmental
26 control board of such municipality after a hearing or opportunity to be
27 heard. All civil penalties collected for any violations of this title
28 that have been imposed by a municipality shall be paid into the general
29 fund of such municipality.

30 9. Any consumer who was denied removal and acceptance of his or her
31 discarded carpet by a manufacturer, a wholesaler, a retailer or a floor-
32 ing and floor covering contractor may report such denial to the depart-
33 ment or the designated authority within a municipality who has received
34 a delegation from the department pursuant to subdivision two of this
35 section. Such consumer shall file a claim online with the department or
36 the designated authority within a municipality, who has received a
37 delegation from the department pursuant to subdivision two of this
38 section, indicating the date, name and location of the manufacturer,
39 wholesaler, retailer or flooring and floor covering contractor who
40 refused to remove and accept the consumer's discarded carpet. Upon
41 review of the claim, the department or the designated authority within a
42 municipality, who has received a delegation from the department pursuant
43 to subdivision two of this section, shall investigate the claim within
44 ninety days from the date of receipt of the claim. Within one hundred
45 twenty days from the date of receipt of the claim, the department or the
46 designated authority within a municipality, who has received a deleg-
47 ation from the department pursuant to subdivision two of this section,
48 shall determine whether or not an administrative civil penalty of one
49 thousand dollars shall be assessed against such manufacturer, whole-
50 saler, retailer or flooring and floor covering contractor, in addition
51 to enforcing the removal and acceptance of discarded carpet mandated by
52 the provisions of this title. The party with whom the person filing the
53 claim last interacted shall be the primary responsible party who shall
54 pay the administrative civil penalty of one thousand dollars.
55 § 27-2821. State agencies' responsibilities.

1 1. State agencies shall implement carpet waste reduction, reuse, recy-
2 cling and purchase recycled carpets from manufacturers, wholesalers or
3 retailers who comply with the provisions of this title. State agencies
4 shall use flooring and floor covering contractors who comply with the
5 provisions of this title.

6 2. Beginning July first, two thousand nineteen, at least thirty-five
7 percent of the carpets purchased by state agencies shall be recycled
8 carpet and comply with the NSF/ANSI 140-2007e standard, platinum level,
9 or a more stringent standard providing for the best sustainability
10 performance and a better protection of the environment and the public
11 health. Thereafter, such purchase shall increase at a rate of twenty
12 percent each year until it reaches one hundred percent.

13 § 27-2823. Miscellaneous.

14 1. This title does not limit, supersede, duplicate, or otherwise
15 conflict with the provisions of article thirty-seven of this chapter on
16 substances hazardous or acutely hazardous to public health, safety and
17 the environment.

18 2. If any provision of this title or its application to any person or
19 circumstance is held invalid, the remainder of this title or the appli-
20 cation of the provision to other persons or circumstances is not
21 affected.

22 § 3. This act shall take effect immediately.